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8 **BEFORE THE**
9 **PHYSICAL THERAPY BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against: Case No. 1D 2000 62682

12 **CHRISTIAN JOSEPH H. PACHECO** **STATEMENT OF ISSUES**
2217 Baltic Avenue
13 Long Beach, CA 90810

14 Respondent.
15

16 **Complainant alleges:**

17 **PARTIES**

18 1. Steven K. Hartzell ("Complainant") brings this statement of issues solely
19 in his official capacity as the Executive Officer of the Physical Therapy Board of California
20 (ABoard@), Department of Consumer Affairs.

21 2. On or about March 1, 2001, Christian Joseph H. Pacheco ("Respondent")
22 submitted an application for a physical therapist license to the Physical Therapy Board of
23 California. The application was denied on or about May 3, 2001.

24 **JURISDICTION**

25 3. This Statement of Issues is brought before the Board, under the authority
26 of the following sections of the Business and Professions Code ("Code").
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3 4. Section 2609 of the Code states:

4 The board shall issue, suspend, and revoke licenses and approvals to practice
5 physical therapy as provided in this chapter.

6  5. Section 480 of the Code states:

7 A(a) A board may deny a license regulated by this code on the grounds that the
8 applicant has one of the following:

9 A(1) Been convicted of a crime. A conviction within the meaning of this section
10 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
11  which a board is permitted to take following the establishment of a conviction may be taken
12 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,
13 or when an order granting probation is made suspending the imposition of sentence, irrespective
14 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 A. . .@


16 A(3) Done any act which if done by a licentiate of the business or profession in
17 question, would be grounds for suspension or revocation of license.@

18 AThe board may deny a license pursuant to this subdivision only if the crime or
19 act is substantially related to the qualifications, functions or duties of the business or profession
20 for which application is made.@

21 A(b) Notwithstanding any other provision of this code, no person shall be denied
22 a license solely on the basis that he has been convicted of a felony if he has obtained a certificate
23 of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been
24 convicted of a misdemeanor if he has met all applicable requirements of the criteria of
25 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering
26 the denial of a license under subdivision (a) of Section 482.@

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1 6. Section 2661 of the Code states:

2 A plea or verdict of guilty or a conviction following a plea of nolo contendere
3 made to a charge of a felony or of any offense which substantially relates to the qualifications,
4 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
5 this article. The board may order the license suspended or revoked, or may decline to issue a
6 license, when the time  appeal has elapsed, or the judgement of conviction has been affirmed
7 on appeal or when an order granting probation is made suspending the imposition of sentence,
8 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
9 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
10 of guilty, or dismissing the accusation, information, or indictment.

FIRST CAUSE FOR DENIAL OF APPLICATION

**(INDECENT EXPOSURE IN A PUBLIC PLACE AND/OR
UNNATURAL AND LASCIVIOUS ACT)**

15 7. Respondent's application is subject to denial under section 480,
16 subdivision (a) (3) of the Code in that respondent committed indecent exposure in a public place
17 and/or an unnatural, lewd and/or lascivious act, which is substantially related to the
18 qualifications, functions or duties of the business or profession for which application is made.

19 The circumstances are as follows:

a. On May 18, 2000, respondent was at a beach area, commonly referred to or known as the Bluffs. The Bluffs is located at Scenic Hwy. and Summit Blvd., in Pensacola, Florida. Respondent lived nearby the Bluffs at this time.

b. On that date, female victim, E.M. parked her vehicle next to respondent's green 4-door Mitsubishi. As victim E.M. exited her vehicle, respondent said Ahi@ to her. She continued to walk down to the beach.

26 c. While walking on the beach, victim E.M. observed respondent

1 about 15 feet away, kneeling down, with no shirt on and masturbating.
2 Respondent continued to masturbate in front of victim E.M. for approximately five
3 minutes.

4 d. After respondent finished, respondent stood up and wiped his legs
5 off. He pulled up a pair of blue underwear and green shorts. Respondent then left the
6 beach and walked toward his car.

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8 e. After observing respondent enter his vehicle, victim E.M. recorded
9 the vehicle=s Florida license plate number, which was later identified and
10 registered to respondent.

11 f. A few days prior to this incident, on May 14, 2000, victim E.M.
12 had reported to the police that respondent, was at the same location, hiding in the bushes,
13 watching her and another female on the beach.

14 g. On May 19, 2000, officers from the Pensacola Police Department
15 spoke with respondent. Respondent confirmed that on May 18, 2000, the vehicle
16 that was identified at the Bluffs belonged to him and that he was present at that location.
17 Respondent, however, denied he engaged in the alleged conduct.

18 h. On May 22, 2000, respondent was arrested. A two count
19 misdemeanor complaint was filed against respondent charging him with indecent
20 exposure in a public place in violation of Florida statute section 800.03 (count 1) and
21 unnatural and lascivious act/behavior in violation of section 800.02 (count 2).

22 i. On June 12, 2000, respondent entered a not guilty plea to the
23 charges. A jury trial was held on August 28, 2000. After the close of the
24 evidence, the jury returned a guilty verdict on both counts. Respondent was sentenced
25 on count 1 to a term of probation for 12 months. On count 2, respondent was sentenced
26 to county jail for 30 days. Respondent was also ordered to pay the costs of supervision of
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1 \$50 per month along with a total fine and costs of \$661.

2 j. Also, prior to the start of respondent=s jury trial, the court charged
3 respondent with contempt, to which respondent entered a not guilty plea. At the
4 end of the trial, the court found respondent guilty of contempt and was fined \$150.

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10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(CRIMINAL CONVICTION)**

12 9. Respondent's application is subject to denial under section 480,
13 subdivision (a) (1), as well as section 2661 of the Code in that on or about August 28, 2000, in a
14 criminal proceeding entitled *State of Florida v. Christian Pacheco* in Escambia County Court,
15 Florida, Case Number 00-23870-MMA, respondent was convicted by verdict after trial for
16 committing Indecent Exposure in a Public Place and engaging in  Unnatural and Lascivious
17 Act. The circumstances are as follows:

18 a. The facts and allegations in paragraph 8, subparagraphs (a) through (j),
19 inclusive, are incorporated by reference as if fully set forth herein.

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21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Physical Therapy Board of California issue a
24 decision:

25 1. Denying the application of Christian Joseph H. Pacheco for a physical
26 therapy license; and

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1 2. Taking such other and further action as deemed necessary and proper.

2 DATED: September 20, 2001.

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4 Original signed by Steven K.
5 Hartzell
6 STEVEN K. HARTZELL
7 Executive Officer
8 Physical Therapy Board of California
9 Department of Consumer Affairs
10 State of California
11 Complainant
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